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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

JUNKER, JONATHAN T

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claims 1-18 are pending and are examined below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 9, 10 and 13 rejected under 35 U.S.C. 102(b) as being anticipated by Dunsmoor, US Patent 4,558,536.

Regarding claim 1, Dunsmoor discloses an apparatus that is capable of being made by the method of replacing an existing wood window in the framework of a building to retain the original wood window appearance, comprising the steps of: providing a replacement wood frame which has a similar exterior appearance to the existing window, the wood frame comprising: a top horizontal member having ends (140 fig 1), each end of the top horizontal member attached to a vertical side member (147 fig 1), a bottom horizontal member having ends (143 fig 1), each end of the bottom horizontal member attached to the vertical side members so as to construct a substantially rectangular frame with an interior surface and an exterior surface, and a center horizontal member (115 fig 1) attached between the two vertical members

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approximately equidistant between the top and bottom horizontal members; inserting a non-wooden double hung window into the wood frame, the non-wooden double hung window comprising: a top horizontal member having ends (column 4 line 42), each end of the top horizontal member attached to a vertical side member (column 4 line 43), a bottom horizontal member having ends (column 4 line 42), each end of the bottom horizontal member attached to the vertical side members so as to construct a substantially rectangular frame with an interior surface and an exterior surface, and an upper and lower metal window sash (column 4 line 34-35); fastening the non-wooden double hung window to the wood frame; and attaching the wood frame and non-wooden double hung window combination to the framework of the building.

Regarding claim 2, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, wherein the non-wooden double hung window is metal or plastic (column 2 lines 49-51).

Regarding claim 4, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, wherein at least one of the non-wooden double hung window vertical members and non-wooden double hung window horizontal members are substantially hidden when viewed from an angle perpendicular to the face of the window (column 4 lines 26-28).

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Regarding claim 5, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, further including the step of routing the interior of the wood frame so as to accept the non-wooden double hung window into the wood frame such that the interior surfaces of the non-wooden double hung window and the wood frame are substantially flush (supplied figure 1, reference A).

Regarding claim 9, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, The method of claim 1, wherein the step of fastening the non-wooden double hung window into the wood frame includes drilling holes horizontally through the non- wooden double hung window and securing to the vertical side members of the wood frame (54 fig 3 and fig 4A).

Regarding claim 10, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, further including the step of routing at least one groove in the center bar of the wood frame (supplied figure 2, reference B).

Regarding claim 13, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, further including the step of routing at least one groove in the bottom horizontal member of the wood frame (supplied figure 2, reference C).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmoor US Patent 4,558,536 in view of the applicant's disclosure. Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, however, does not disclose the window having a screen. The applicant's disclosure states that it is well known in the art to have multiple tracts to allow the screen and glass to be installed simultaneously (page 5 lines 4-6). Since it is well known in the art to incorporate a screen into a window assembly, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide a screen with Dunsmoor's window assembly to prevent the ingress of insects.

Claims 6, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmoor US Patent 4,558,536 in view of Coddens US Patent 5,390,454.

Regarding claim 6, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, however, Dunsmoor does not disclose the step of

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fastening the non-wooden double hung window into the wood frame including applying adhesive into the routed frame prior to inserting the non-wood double hung window.

Coddens discloses an adhesive disposed in a groove along the edge of non-wooden window for connection to the wood frame (50 fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to include the step of applying an adhesive to a groove to hold the non-wooden window in place during the assembly process. Furthermore, the adhesive applied in the groove would help to limit the air infiltration around the non-wooden window, thus increasing the energy efficiency of the window assembly

Regarding claim 14, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1; Dunsmoor further discloses a weatherguard strip (194 fig 3) with one protrusion matched to the at least one groove (supplied figure 1, reference A), however, Dunsmoor does not disclose that the weather guard strip is adhered in the groove. Coddens discloses an adhesive disposed in a groove along the edge of non-wooden window for connection to the wood frame (50 fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to include the step of applying an adhesive to a groove to hold the non-wooden window in place during the assembly process. Furthermore, the adhesive applied in the groove would help to limit the air infiltration around the non-wooden window, thus increasing the energy efficiency of the window assembly

Regarding claim 15, Dunsmoor in view of Coddens disclose an apparatus that is capable of being made by the method of claim 14; Dunsmoor discloses that the weatherguard strip is a non-wood substance comprising aluminum (column 2 lines 49-51).

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmoor US Patent 4,558,536 in view of Held US Patent 4,566,234.

Regarding claim 7, Dunsmoor discloses an apparatus that is capable of being made by the method of claim 1, however, Dunsmoor does not disclose the steps of drilling a plurality of weep holes in the bottom of the wood frame, with the holes drilled at an angle. Held discloses a window frame that discloses a plurality of weep holes (7 fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate weep holes into the wood frame for the removal of excess water from condensation.

Regarding claim 8, Dunsmoor in view of Held disclose an apparatus that is capable of being made by the method of claim 7, Held discloses weep holes that are lined with a water resistant material (column 4 lines 39-40).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunsmoor US Patent 4,558,536. While Dunsmoor discloses an apparatus that is

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capable of being made by the method of claim 1, Dunsmoor does not disclose the non-wooden window having a flange that is removed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove excess material during a machining process when the non-wooden window was being made. This is a necessary production step for any metal forming process.

Claim Objections

Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

Claim 17 and 18 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan T. Junker whose telephone number is (571)272-4020. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JTJ
9/28/2006



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